

# SENATE BILL 800

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By: **Senator Klausmeier**

Introduced and read first time: February 10, 2010

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Common Ownership Communities – Fidelity Insurance – Exemption**

3 FOR the purpose of limiting the applicability of a certain requirement that the  
4 governing bodies of certain common ownership communities purchase fidelity  
5 insurance; exempting the governing body of a cooperative housing corporation, a  
6 condominium, or a homeowners association with fewer than a certain number  
7 of members, units, or lot owners and with less than a certain amount of common  
8 charges, assessments, or fees from the requirement of purchasing fidelity  
9 insurance; and generally relating to fidelity insurance and common ownership  
10 communities.

11 BY repealing and reenacting, with amendments,  
12 Article – Corporations and Associations  
13 Section 5–6B–18.6  
14 Annotated Code of Maryland  
15 (2007 Replacement Volume and 2009 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Real Property  
18 Section 11–114.1 and 11B–111.6  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume and 2009 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article – Corporations and Associations**

24 5–6B–18.6.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (a)   **THIS SECTION DOES NOT APPLY TO A COOPERATIVE HOUSING**  
2 **CORPORATION:**

3                   (1)   **THAT HAS FEWER THAN FOUR MEMBERS; AND**

4                   (2)   **FOR WHICH 3 MONTHS' WORTH OF GROSS COMMON CHARGES**  
5 **IS LESS THAN \$2,500.**

6           **(B)** (1)   The board of directors or other governing body of a cooperative  
7 housing corporation shall purchase fidelity insurance not later than the time of the  
8 first sale of a cooperative interest with respect to a unit to a person other than the  
9 developer and shall keep fidelity insurance in place for each year thereafter.

10                   (2)   The fidelity insurance required under paragraph (1) of this  
11 subsection shall provide for the indemnification of the cooperative housing corporation  
12 against loss resulting from acts or omissions arising from fraud, dishonesty, or  
13 criminal acts by:

14                           (i)   Any officer, director, managing agent, or other agent or  
15 employee charged with the operation or maintenance of the cooperative housing  
16 corporation who controls or disburses funds; and

17                           (ii)   Any management company employing a management agent  
18 or other employee charged with the operation or maintenance of the cooperative  
19 housing corporation who controls or disburses funds.

20           **[(b)] (C)**   A copy of the fidelity insurance policy shall be included in the  
21 books and records kept and made available by or on behalf of the cooperative housing  
22 corporation under § 5-6B-18.5 of this subtitle.

23           **[(c)] (D)** (1)   The amount of the fidelity insurance required under  
24 subsection (a) of this section shall equal at least the lesser of:

25                           (i)   3 months' worth of gross common charges and the total  
26 amount held in all investment accounts at the time the fidelity insurance is issued; or

27                           (ii)   \$3,000,000.

28                   (2)   The total liability of the insurance to all insured persons under the  
29 fidelity insurance may not exceed the sum of the fidelity insurance.

30           **[(d)] (E)**   If a member believes that the board of directors or other governing  
31 body of a cooperative housing corporation has failed to comply with the requirements  
32 of this section, the aggrieved member may submit the dispute to the Division of  
33 Consumer Protection of the Office of the Attorney General under § 5-6B-12 of this  
34 subtitle.



1 section, the aggrieved unit owner may submit the dispute to the Division of Consumer  
2 Protection of the Office of the Attorney General under § 11–130 of this title.

3 11B–111.6.

4 (a) **THIS SECTION DOES NOT APPLY TO A HOMEOWNERS ASSOCIATION:**

5 **(1) THAT HAS FEWER THAN FOUR LOT OWNERS; AND**

6 **(2) FOR WHICH 3 MONTHS' WORTH OF GROSS ANNUAL**  
7 **HOMEOWNERS ASSOCIATION FEES IS LESS THAN \$2,500.**

8 **(B)** (1) The board of directors or other governing body of a homeowners  
9 association shall purchase fidelity insurance not later than the time of the first  
10 conveyance of a lot to a person other than the declarant and shall keep fidelity  
11 insurance in place for each year thereafter.

12 (2) The fidelity insurance required under paragraph (1) of this  
13 subsection shall provide for the indemnification of the homeowners association against  
14 loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts  
15 by:

16 (i) Any officer, director, managing agent, or other agent or  
17 employee charged with the operation or maintenance of the homeowners association  
18 who controls or disburses funds; and

19 (ii) Any management company employing a management agent  
20 or other employee charged with the operation or maintenance of the homeowners  
21 association who controls or disburses funds.

22 **[(b)] (C)** A copy of the fidelity insurance policy shall be included in the  
23 books and records kept and made available by or on behalf of the homeowners  
24 association under § 11B–112 of this title.

25 **[(c)] (D)** (1) The amount of the fidelity insurance required under  
26 subsection (a) of this section shall equal at least the lesser of:

27 (i) 3 months' worth of gross annual homeowners association  
28 fees and the total amount held in all investment accounts at the time the fidelity  
29 insurance is issued; or

30 (ii) \$3,000,000.

31 (2) The total liability of the insurance to all insured persons under the  
32 fidelity insurance may not exceed the sum of the fidelity insurance.

1           **[(d)] (E)**     If a lot owner believes that the board of directors or other  
2 governing body of a homeowners association has failed to comply with the  
3 requirements of this section, the aggrieved lot owner may submit the dispute to the  
4 Division of Consumer Protection of the Office of the Attorney General under  
5 § 11B–115 of this title.

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2010.